

U.S. Patent and Trademark Office, Commerce

§ 1.484

handling fee or preliminary examination fee payable is the handling fee or preliminary examination fee in effect on the date of payment.

(1) If the handling and preliminary examination fees are not paid within the time period set in PCT Rule 57.3, applicant will be notified and given one month within which to pay the deficient fees plus a late payment fee equal to the greater of:

(i) Fifty percent of the amount of the deficient fees, but not exceeding an amount equal to double the handling fee; or

(ii) An amount equal to the handling fee (PCT Rule 58bis.2).

(2) The one-month time limit set in this paragraph to pay deficient fees may not be extended.

(b) If the payment needed to cover the handling and preliminary examination fees, pursuant to paragraph (a) of this section, is not timely made in accordance with PCT Rule 58bis.1(d), the United States International Preliminary Examination Authority will declare the Demand to be considered as if it had not been submitted.

[63 FR 29619, June 1, 1998, as amended at 68 FR 59888, Oct. 20, 2003]

§ 1.482 International preliminary examination fees.

(a) The following fees and charges for international preliminary examination are established by the Director under the authority of 35 U.S.C. 376:

(1) The following preliminary examination fee is due on filing the Demand:

(i) If an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

(A) For an international preliminary examination fee paid on or after January 1, 2014:	
By a micro entity (\$1.29)	\$150.00
By a small entity (\$1.27(a))	\$300.00
By other than a small or micro entity	\$600.00

(B) For an international preliminary examination fee paid before January 1, 2014	\$600.00
--	----------

(ii) If the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office:

(A) For an international preliminary examination fee paid on or after January 1, 2014:	
By a micro entity (\$1.29)	\$190.00
By a small entity (\$1.27(a))	\$380.00
By other than a small or micro entity	\$760.00
(B) For an international preliminary examination fee paid before January 1, 2014 \$750.00.	

(2) An additional preliminary examination fee when required, per additional invention:

(i) If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid on or after January 1, 2014:	
By a micro entity (\$1.29)	\$150.00
By a small entity (\$1.27(a))	\$300.00
By other than a small or micro entity	\$600.00
(ii) If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid before January 1, 2014	\$600.00

(b) The handling fee is due on filing the Demand and shall be prescribed in PCT Rule 57.

[78 FR 17107, Mar. 20, 2013]

§ 1.484 Conduct of international preliminary examination.

(a) An international preliminary examination will be conducted to formulate a non-binding opinion as to whether the claimed invention has novelty,

§ 1.485

involves an inventive step (is non-obvious) and is industrially applicable.

(b) International preliminary examination will begin in accordance with PCT Rule 69.1.

(c) No international preliminary examination will be conducted on inventions not previously searched by an International Searching Authority.

(d) The International Preliminary Examining Authority will establish a written opinion if any defect exists or if the claimed invention lacks novelty, inventive step or industrial applicability and will set a non-extendable time limit in the written opinion for the applicant to reply.

(e) The written opinion established by the International Searching Authority under PCT Rule 43*bis*.1 shall be considered to be a written opinion of the United States International Preliminary Examining Authority for the purposes of paragraph (d) of this section.

(f) The International Preliminary Examining Authority may establish further written opinions under paragraph (d) of this section.

(g) If no written opinion under paragraph (d) of this section is necessary, or if no further written opinion under paragraph (f) of this section is to be established, or after any written opinion and the reply thereto or the expiration of the time limit for reply to such written opinion, an international preliminary examination report will be established by the International Preliminary Examining Authority. One copy will be submitted to the International Bureau and one copy will be submitted to the applicant.

(h) An applicant will be permitted a personal or telephone interview with the examiner, which may be requested after the filing of a Demand, and must be conducted during the period between the establishment of the written opinion and the establishment of the international preliminary examination report. Additional interviews may be conducted where the examiner determines that such additional interviews may be helpful to advancing the international preliminary examination procedure. A summary of any such personal or telephone interview must be filed by the applicant or, if not filed by

37 CFR Ch. I (7–1–13 Edition)

applicant be made of record in the file by the examiner.

(i) If the application whose priority is claimed in the international application is in a language other than English, the United States International Preliminary Examining Authority may, where the validity of the priority claim is relevant for the formulation of the opinion referred to in Article 33(1), invite the applicant to furnish an English translation of the priority document within two months from the date of the invitation. If the translation is not furnished within that time limit, the international preliminary report may be established as if the priority had not been claimed.

[52 FR 20049, May 28, 1987, as amended at 58 FR 4346, Jan. 14, 1993; 62 FR 53199, Oct. 10, 1997; 63 FR 29619, June 1, 1998; 66 FR 16006, Mar. 22, 2001; 68 FR 59888, Oct. 20, 2003]

§ 1.485 Amendments by applicant during international preliminary examination.

The applicant may make amendments at the time of filing the Demand. The applicant may also make amendments within the time limit set by the International Preliminary Examining Authority for reply to any notification under § 1.484(b) or to any written opinion. Any such amendments must be made in accordance with PCT Rule 66.8.

[74 FR 31373, July 1, 2009]

§ 1.488 Determination of unity of invention before the International Preliminary Examining Authority.

(a) Before establishing any written opinion or the international preliminary examination report, the International Preliminary Examining Authority will determine whether the international application complies with the requirement of unity of invention as set forth in § 1.475.

(b) If the International Preliminary Examining Authority considers that the international application does not comply with the requirement of unity of invention, it may:

(1) Issue a written opinion and/or an international preliminary examination report, in respect of the entire international application and indicate that